

SAFETY AWARENESS BOARD

Minutes

Wednesday, October 12, 2005

9:00 a.m.

In attendance: Joseph Sabitoni

Robin Coia

Wayne Coulombe

Nick Giardino

Edgar Ladouceur

James Jackson

Dan Jones

Bernard Trembl

Chairperson, Joseph Sabitoni called the meeting to order at 8:15 a.m.

There is a quorum. All members were in attendance for today's meeting with the exception of Eric Anderson.

The first order of business today is acceptance of minutes of the Wednesday, June 8, 2005 meeting. Everyone had an opportunity to review the minutes. Mr. Ed Ladouceur made a motion to approve the minutes as submitted. Mr. Bernard Trembl seconded the motion. All members voted in favor.

The next order of business is appeal hearings. There are two (2) appeal hearings on the agenda. Mr. Sabitoni explained the Board's procedures for conducting appeal hearings. Mr. Karl Swanson, Prevailing Wage Examiner, was sworn in.

APPEAL HEARING:

The first appeal on the agenda pertain to Wayne Roofing. Mr. Peter Flynn, owner and president of Wayne Roofing was in attendance for today's hearing. Mr. Flynn was sworn in.

Mr. Swanson read the violation. On August 23, 2005 Lisa Tirocchi, Prevailing Wage Investigator visited the Oak Lawn Elementary School construction project on 36 Stoneham Avenue, Cranston, RI and found Mr. Lance Lanzoni, an employee of Wayne Roofing Systems, Inc. working on the project without OSHA 10 hour certification. Mr. Lanzoni was informed of the alleged violation, as was Mr. Tiago Teves, the project foreman on the job. Wayne Roofing was fined \$950 for this violation. This company had a prior violation in July, 2003 which was suspended for a 12-month period, and this is the first time since then that they have been before the Board.

Mr. Flynn informed the Board that he has 18 employees, and 15 of them have their OSHA 10-hour cards. This company does a lot of work in Rhode Island and Massachusetts. They hired some new guys, and they have been keeping those guys on the Massachusetts

jobs. Somehow, they forgot Mr. Lanzoni did not take the OSHA 10-hour training course, and the foreman on the job thought only the roofers needed the OSHA 10-hour certification. Mr. Flynn informed the Board that all three (3) of the individuals who don't have the OSHA 10-hour card are scheduled to take the class on Thursday, October 13, 2005. Mr. Flynn provided the Board with a copy of the receipt. This was the earliest class they could get scheduled for.

A violation was issued to Mr. Lanzoni as well as Wayne Roofing. Mr. Lanzoni was issued a fine in the amount of \$250 and has never paid his fine or requested an appeal. Mr. Flynn told Mr. Lanzoni if it was okay, he would represent him in the hearing, however, the Board has nothing in writing that Mr. Lanzoni was requesting an appeal, or that he was giving Mr. Flynn authority to speak in his behalf.

Mr. Ladouceur made a motion that based on the testimony provided, and in light of the fact that this company has been cited in the past, and Mr. Flynn is aware of the requirements of RIGL 37-23, a finding of fact is made that Wayne Roofing Systems, Inc. was in violation of RIGL 37-23 for having an employee, Mr. Lance Lanzoni working on the Oak Lawn Elementary School construction project on August 23, 2005 without OSHA 10-hour certification. A recommendation is therefore made to the Director that the \$950 fine be upheld. Mr. Jones seconded the motion. All members voted in favor.

Mr. Sabitoni informed Mr. Swanson that a final notice should be sent to Mr. Lanzoni regarding his violation and fine.

Mr. Flynn stated that if his fine were in fact upheld, then he would not

send his employee's to the OSHA 10-hour training, because either way it was going to cost him \$950. He will just not send those individuals to public works jobs in Rhode Island.

The next hearing on the agenda pertains to Newport Construction Services and its five (5) employees (Russell Dumont, Patricia Dumont, Scott Dumont, Ryan Dumont, Christopher Dumont, and Jose Rodrigo). Mr. William O'Hanley, owner of Newport Construction Services and Mr. Russell Dumont, Foreman were in attendance on behalf of Newport Construction Services. Mr. Michael Murray, Attorney, was also in attendance on behalf of Newport Construction Services. Mr. O'Hanley and Mr. Dumont were sworn in. The Board was provided with a signed letter from all six (6) employees giving Mr. O'Hanley and/or his attorney authority to speak on their behalf for their appeals.

Mr. Swanson read the violation. On July 25, 2006, Karl D. Swanson, Prevailing Wage Investigator, visited the Rogers High School construction project on Wickham Road, Newport, RI and found the above six (6) employees of Newport Construction Services on site without their OSHA 10-hour safety awareness certification. All six (6) employees were advised of the alleged violations. Fines in the amount of \$500 for each of the six (6) employees for a total of \$3,000 was assessed to Newport Construction Services, and each employee was assessed a fine in the amount of \$250.

Mr. Murray informed the Board that he represents both Newport Construction Services and Newport Roofing. For the sake of clarification, Mr. Murray informed the Board that the company which

was cited in the cease and desist orders was Newport Construction Services, however, the company that had this contract, and which these six (6) employees work for is Newport Roofing. Mr. Murray informed the Board that at the time these employees were cited, they were on lunch. They were working on the job though. Immediately after being cited for these violations, the job was stopped, and the owner got the name of someone who could give the course. The very next day 17 employees took the course.

Mr. Murray informed the Board that this was the first time in ten (10) years this company bid on a job over \$100,000, and they have not worked on any prevailing wage jobs over \$100,000 since this regulation went into effect. This is a first violation, and they would like consideration to having these fines dismissed. They are now in compliance, and intend to comply with the chapter in the future.

Mr. Ladouceur asked if there was any documentation proving that these employees did take the OSHA 10-hour training course. Mr. Russell Dumont showed the Board his OSHA 10-hour card, but did not have copies of any of the other employees OSHA 10-hour cards. Mr. Dumont did testify under oath that all of the 17 employees took the class with him. Mr. Trembl asked if the company has copies of the OSHA 10-hour cards on file for all of the employees, and he was told that they do.

Mr. O'Hanley stated that the course was set up by him, and was paid for by his company at a cost of over \$2,000.

Mr. Giardino made a motion that based on the testimony provided, the company has showed a good faith effort in getting into compliance, and recommended that the fines for the company and all of the employees be suspended for a 12-month period pending any further violations. Ms. Coia seconded the motion. Under discussion, Mr. Ladouceur asked how many employees this company has, and he was told there are 35 employees, and 17 of them attended the OSHA 10-hour training. Mr. Ladouceur stated that he does not agree and will vote against this motion because there were six (6) employees on the job. The law has been in effect for three (3) years. In a company with 35 employees they should have known about this law. Mr. Jackson asked if the remainder of the employees would be trained, and Mr. O'Hanley said he was currently working with his insurance carrier to do that. Upon vote on this motion, all members voted in favor, with the exception of Mr. Ladouceur and Mr. Jackson who voted in opposition. The motion passed by majority vote.

Mr. Ladouceur requested that the individual hired to train the employees of this company for their OSHA 10 hour certification come before the Board at its next meeting to be held on Wednesday, November 9, 2005. That individual is Herbert Joslin. Mr. Murray stated that he would provide a copy of the training roster.

Mr. Ladouceur made a motion to bring in Mr. Joslin, the training provider before the Board at its next meeting in November. Mr. Jones seconded the motion. All members voted in favor.

The Board advised Mr. Swanson to hold up on sending the appeal

recommendations up to the Director until the Board has verification of training of the other five (5) individuals who were sited, as well as a copy of Mr. Joslin's training roster.

This concluded the hearings. There was no further business before the Board.

Mr. Ladouceur made a motion to adjourn at 9:10 a.m. Mr. Jones seconded the motion. All members voted in favor.

The next meeting of the Board of Safety Awareness is scheduled for Wednesday, November 9, 2005 at 8:00 a.m. in Building 70 of the RI Department of Labor & Training, Second Floor Conference Room, 1511 Pontiac Avenue, Cranston, RI 02920.